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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,240	03/27/2001	Mark D. Swanson	56401US002	1590

7590 05/03/2004

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EXAMINER

NGUYEN, JOHN QUOC

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,240

Applicant(s)

SWANSON ET AL.

Examiner

John Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 21, 23-28 and 30-32 is/are rejected.
- 7) ☒ Claim(s) 20, 22, 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop (US 474518). The side shields AA are concave in the same way as applicant's device (see below). The side shields are movable as claimed (the shields AA can be removed from the core and positioned with the outside walls facing the roll therefore forming a convex shape facing the roll). It is deemed that there is friction between the plugs B and the core C (as opposed to being frictionless) therefore forming a "friction fit". All the pieces are attached together as shown in the figures. Adhesive tape would have been an obvious choice of material to be used in conjunction with the apparatus as adhesive tape provided as a roll is old and well known.

Claims 1-10, 18, 19, 21, 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweeney (US 3430886).

Sweeney discloses a dispensing apparatus having substantially all the claimed features including a "first dispensing guard" 6 and a "second dispensing guard" 5 with respective retaining plugs 4. The use of a core to support a roll of material is old and well known in the art; therefore, the provision of a core to support the roll would have been obvious to a person having ordinary skill in the art to provide a surface for winding the material. It is deemed inherent that the roll is friction fit. Adhesive tape would have been an obvious choice of material to be used in conjunction with the apparatus as adhesive tape provided as a roll is old and well known.

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Claims 11-17, 26-28, 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweeney (US 3430886) as applied to claims 1-10, 18, 19, 21, 23-25 above, and further in view of Burger et al (US 4802638).

Burger discloses another similar apparatus in which two movable guard are provided therefore increasing the volume available for the wound material. It would have been obvious to a person having ordinary skill in the art to provide the second guard 5 of Sweeney as being movable as taught by Burger et al to increase the interior volume for the wound material.

Claims 20, 22, 29 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record does not show or render obvious the subject matter as recited in claims 20, 22, and 29.

Applicant's arguments filed 3/17/04 have been fully considered but they are not persuasive.

The only "modification" advanced in the rejection based on Bishop was for the material to be adhesive tape. As noted above, the side shields are certainly movable as claimed. Otherwise, it is not clear and applicant has not pointed out which limitation has not been met; therefore, it is assumed that all limitations have been met in the rejection based on Bishop.

Relative to Sweeney, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "when the product is used up, the empty core may be removed", "locating a roll on continuous length product including a core onto the bobbin", "to install the roll of product") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). It should be noted that the material used for the device (see col.3, lines 6-18) would enable the side shields to be deformed sufficiently to insert a roll.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

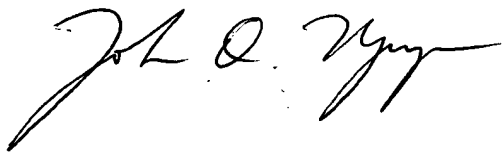
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Nguyen whose telephone number is (703) 308-

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2689. The examiner can normally be reached on Monday-Friday from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki, can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.

A handwritten signature in black ink, appearing to read "John Q. Nguyen". The signature is fluid and cursive, with the first name "John" and last name "Nguyen" being clearly distinguishable.

John Q. Nguyen
Primary Examiner
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